



October 16, 2020

The Honorable Tracy O. King  
Chairman  
Licensing & Administrative Procedures Committee  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

**Re: Notice of Formal Request for Information/Charge #1 (SB 1450)**

Dear Chairman King:

On behalf of the Distilled Spirits Council of the United States, the national trade association representing producers and marketers of distilled spirits and importers of wines sold in the U.S., we welcome the opportunity to respond to the request for information from the House Licensing & Administrative Procedures Committee regarding Charge #1, SB 1450 (2019), Alcohol Delivery.

As a supporter of SB 1450 during the last legislative session, we commend the Legislature for enacting this bill, which allows retailers to deliver and/or retain third parties to deliver alcohol beverages to consumers. By joining the majority of states allowing consumer delivery of beverage alcohol products, Texas extended to consumers a convenient and easy means of shopping that they have increasingly come to rely upon in purchasing so many other types of products.

With the pandemic, however, delivery and other new options for restaurants and other ABC permittees are now a matter of necessity for the continued survival and recovery of those businesses that have managed to stay open, as well as to stem the tide of massive job losses. As reported by the Texas Restaurant Association last spring, the pandemic and the mandated closures and restrictions on restaurants have resulted in the loss of \$4.2 billion in revenue, the permanent closure of as much as 10% of the state's restaurants, and 700,000 jobs, which is three times the amount of job losses for any other industry.

The Governor has responded with a series of measures providing relief from requirements in the Alcoholic Beverage Code and the ABC's rules, and we are very appreciative of his support. It, however, will take years for industry to recover, especially with the substantial obstacles to normal business operations posed by capacity and social distancing requirements and the reluctance of consumers to return to their previous dining out habits.

For these reasons, we urge the Legislature to make permanent the Governor's temporary waiver of requirements, which allows restaurants and certain other mixed beverage permittees to sell for carryout and provide delivery of mixed drinks. This relief was requested by the Texas Restaurant Association as an expansion of a previous temporary waiver that allowed carryout sales and delivery of alcohol beverages in original manufacturers' containers. The requested expansion was supported by a coalition of industry stakeholders, including DISCUS, and representing all three industry tiers of.

Specifically, the Governor adopted the industry coalition's proposal to temporarily allow restaurants and mixed beverage permittees with on-premise food service capabilities to mix drinks, combining spirits with other beverages and/or garnishes, and seal them onsite. These permittees are allowed to sell them for carryout by consumers, referred to as "cocktails to go," and also by delivery to consumers. During the short period that they have been allowed, sales of cocktails-to-go and delivery of these mixed drinks have become an important source of revenue for many restaurants and other mixed beverage permittees throughout the State.

In addition to the economic necessity for making these temporary waivers permanent, carryout and delivery of mixed drinks has proven to be very popular with the public and, as with delivery of alcohol beverages under SB 1450, is subject to measures to ensure safety and responsible service.

Among other requirements of the proposal adopted by the Governor:

- The permittee must seal the mixed drink onsite with tape or adhesive label that states the name of the restaurant and "alcoholic beverage." The sealed mixed drink must then be placed in a bag that is sealed with a zip tie.
- Mixed drinks cannot be transported in the passenger area of a motor vehicle as defined by Texas Penal Code Sec. 49.031.
- The following components of the initial to-go waiver still apply:
  - Only a business with permanent food service capabilities at the premises that holds a mixed beverage permit from the TABC may sell mixed drinks to-go.
  - Mixed drinks to-go may only be sold with food.
  - Mixed drinks may be offered to-go for pick-up and delivery orders (including through eligible third parties).
  - Mixed drinks cannot be delivered to ineligible areas or customers (including those under 21 years old or intoxicated).

### **Conclusion**

We believe that legislation adopting cocktails-to-go and delivery of these mixed drinks on a permanent basis serves the interests of industry, consumers and the State of Texas.

Once again, thank you for the opportunity to share our views regarding Charge #1 and please do not hesitate to call if you have any questions.

Sincerely,

A handwritten signature in purple ink that reads "Kristi Brown". The signature is written in a cursive, flowing style.

Kristi Brown  
Senior Director, State Government Relations